

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

STARR GRAFFIOUS

(b) County of Residence of First Listed Plaintiff _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. SECTION 1692

Brief description of cause:

Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S)

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

DATE

SIGNATURE OF ATTORNEY OF RECORD

08/06/12

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

STARR GRAFFIOUS	:	CIVIL ACTION
	:	
v.	:	
	:	
NCO FINANCIAL SYSTEMS, INC.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

08/06/12
Date

Craig Thor Kimmel
Attorney-at-law

Plaintiff, Starr Graffious
Attorney for

215-540-8888
Telephone

877-788-2864
FAX Number

kimmel@creditlaw.com
E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 234 W. Meadow Rd., Baltimore MD 21225

Address of Defendant: 507 Prudential Rd., Horsham PA 19044

Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts

2. ☐ FELA

3. ☐ Jones Act-Personal Injury

4. ☐ Antitrust

5. ☐ Patent

6. ☐ Labor-Management Relations

7. ☐ Civil Rights

8. ☐ Habeas Corpus

9. ☐ Securities Act(s) Cases

10. ☐ Social Security Review Cases

11. ☒ All other Federal Question Cases 15 U.S.C. § 1692
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts

2. ☐ Airplane Personal Injury

3. ☐ Assault, Defamation

4. ☐ Marine Personal Injury

5. ☐ Motor Vehicle Personal Injury

6. ☐ Other Personal Injury (Please specify)

7. ☐ Products Liability

8. ☐ Products Liability — Asbestos

9. ☐ All other Diversity Cases

(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thorkimmer, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 08/06/12

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 08/06/12

Attorney-at-Law

57100

Attorney I.D.#

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STARR GRAFFIOUS,)	
)	
Plaintiff)	
)	Case No.:
v.)	
)	COMPLAINT AND DEMAND FOR
NCO FINANCIAL SYSTEMS, INC.,)	JURY TRIAL
)	
Defendant)	(Unlawful Debt Collection Practices)

COMPLAINT

STARR GRAFFIOUS (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC., (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant is located and conducted business in the Commonwealth of Pennsylvania; therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

PARTIES

5. Plaintiff is a natural person residing in Baltimore, Maryland 21225.

1 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

2 7. In the alternative, Plaintiff is a person granted a cause of action under the
3 FDCPA. See 15 U.S.C. §1692k(a), and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D.
4 Pa. Dec 22, 2000).

5 8. Defendant is a national debt collection company with its corporate headquarters
6 located at 507 Prudential Road, Horsham, Pennsylvania 19044.

7 9. Defendant collects, and attempts to collect, consumer debts incurred, or alleged
8 to have been incurred, for personal, family or household purposes on behalf of creditors and
9 debt buyers using the U.S. Mail, telephone and/or internet.

10 10. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6),
11 and repeatedly contacted Plaintiff in an attempt to collect a debt.

12 11. Defendant acted through its agents, employees, officers, members, directors,
13 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

14
15 **FACTUAL ALLEGATIONS**

16 12. At all relevant times, Defendant was attempting to collect an alleged consumer
17 debt.

18 13. The alleged debt at issue, a Sallie Mae student loan, arose out of transactions,
19 which were primarily for personal, family, or household purposes.

20 14. Beginning in 2012, and continuing through May 10, 2012, Defendant
21 continuously and repeatedly contacted Plaintiff on her home telephone seeking and demanding
22 payment of the debt.

23 15. During the relevant period, Defendant called Plaintiff, on average, two (2) times
24 a day, causing Plaintiff to receive more than ten (10) collection calls a week.
25

1 16. Plaintiff received collection calls from the following phone number: (614) 717-
2 4395, which the undersigned has confirmed is a telephone number belonging to Defendant.

3 17. Plaintiff knew it was Defendant calling because her telephone's caller-ID
4 displayed "NCO Financial," and in those instances when she answered the phone, Defendant's
5 collectors identified their company as "NCO Financial."

6 18. On one occasion, Defendant contacted Plaintiff three (3) times in an afternoon,
7 causing her to answer when it was not convenient for her to do so. In the subsequent
8 conversation, the collector threatened that Plaintiff "would never be able to get a job or buy a
9 house" (*sic*) unless she agreed to cooperate and pay the alleged debt.
10

11 19. Also, Defendant's collector deceptively claimed that Plaintiff "was one step
12 away from bankruptcy", and with that evaluation, threatened to worsen her economic status by
13 lowering her credit score with derogatory information.

14 20. At the time Defendant made these statements, it was not in possession of any
15 documentation regarding the status of Plaintiff's finances.

16 21. Defendant's collector deceptively claimed that the debt was purchased from a
17 company that had originally purchased the debt from Sallie Mae. Wanting to confirm the
18 accuracy of Defendant's statements, Plaintiff contacted Sallie Mae and learned that the debt had
19 been sold to another company, not the one Defendant claimed.
20

21 22. Finally, within five (5) days of its initial communication with Plaintiff,
22 Defendant failed to send Plaintiff written correspondence regarding her rights to dispute the
23 debt and/or request verification as well as providing her with the name of the creditor and the
24 amount of the debt..
25

23. Defendant's actions in attempting to collect this debt were harassing and abusive to Plaintiff.

**DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT
COUNT I**

24. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§1692d and 1692d(5) of the FDCPA.

- a. Section 1692d of the FDCPA prohibits a debt collector from engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
- b. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number.
- c. Here, Defendant violated §§1692d and 1692d(5) of the FDCPA by continuously and repeatedly calling Plaintiff's home telephone, at least, two (2) times a day in an attempt to collect a consumer debt.

COUNT II

25. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§1692e and 1692e(10).

- a. Section 1692e of the FDCPA prohibits a debt collector from using any false, deceptive, or misleading representations or means in connection with the collection of any debt.
- b. Section 1692e(10) of the FDCPA prohibits debt collectors from using

1 any false representation or deceptive means to collect or attempt to
2 collect any debt.

- 3 c. Here, Defendant violated §§1692e and 1692e(10) of the FDCPA by
4 deceptively telling Plaintiff it purchased her debt from one company,
5 when in fact it did not; telling her that she would not be able to buy a
6 house or get a job if she did not pay the alleged debt; and falsely
7 claiming that she was one step away from bankruptcy.

8
9 **COUNT III**

10 26. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.
11 §1692f.

- 12 a. A debt collector violates § 1692f of the FDCPA by using unfair and
13 unconscionable means to collect or attempt to collect any debt.
14 b. Here, Defendant violated § 1692f of the FDCPA by using unfair and
15 unconscionable means to collect or attempt to collect a debt, including
16 threatening Plaintiff that she would not be able to get a job or buy a
17 house if she did not agree to cooperate with Defendant and threatening
18 to lower her credit score in order to coerce her into making a payment.

19
20 **COUNT IV**

21 27. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.
22 §1692g.

- 23 a. A debt collector violates §1692g(a) of the FDCPA by failing to send to
24 the consumer, with five days after its initial communication with a
25 consumer in connection with the collection of a debt, a written notice

1 containing: (1) the amount of the debt; (2) the name of the creditor to
2 whom the debt is owed; (3) a statement that unless the consumer,
3 within thirty days after receipt of the notice, disputes the validity of the
4 debt, or any portion thereof, the debt will be assumed to be valid by the
5 debt collector; (4) a statement that if the consumer notifies the debt
6 collector in writing within thirty-day period that the debt, or any portion
7 thereof, is disputed, the debt collector will obtain verification of the
8 debt or a copy of a judgment against the consumer and a copy of such
9 verification or judgment will be mailed to the consumer by the debt
10 collector; and (5) a statement that, upon the consumer's written request
11 within the thirty-day period, the debt collector will provide the
12 consumer with the name and address of the original creditor, if different
13 from the current creditor.
14

- 15 b. Here, Defendant violated §1692g(a) of the FDCPA by failing to send
16 written notification, within five (5) days after its initial communication
17 with Plaintiff, advising Plaintiff of her rights to dispute the debt or
18 request verification of the debt or providing her with the name of the
19 original creditor and the amount of the debt.
20

21 WHEREFORE, Plaintiff, STARR GRAFFIOUS, respectfully prays for a judgment as
22 follows:

- 23 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
24 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to
25 15 U.S.C. § 1692k(a)(2)(A);

- 1 c. All reasonable attorneys' fees, witness fees, court costs and other litigation
2 costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
3 d. Any other relief deemed appropriate by this Honorable Court.
4

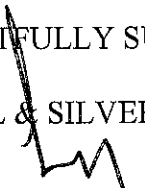
5 **DEMAND FOR JURY TRIAL**

6 PLEASE TAKE NOTICE that Plaintiff, STARR GRAFFIOUS, demands a jury trial in
7 this case.

8
9 DATED: 08/06/12

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

10 By: 
11 CRAIG THOR KIMMEL
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